

### REMARKS

In the Office Action mailed 11/4/2005, Claims 1 – 14 were allowed. Claim 15 was rejected as being anticipated by the prior art under 35 U.S.C. §102(b). Claim 16 was objected to for depending upon a rejected base claim, but was otherwise indicated as being allowable.

In response, Applicant has made amendment to the specification to correct informalities pointed out by the Examiner. Claims 15 and 16 have further been amended to clarify the distinctions between them and the prior art. Applicant respectfully asserts that all claims are now in condition for allowance.

#### Independent Claim 15 (as amended)

This claim stands rejected under 35 U.S.C. §102(b) as being anticipated by, in the alternative, Liu and Dupray. The Applicant respectfully traverses this rejection for the grounds set forth after a discussion of the teachings of these references.

#### Liu, U.S. Patent Application Publication 2004/0029558

Liu is a "Method and System for Determining a Location of a Wireless Transmitting Device and Guiding the Search for the Same." The Liu method and system "employ a 'Movable Detection Station' and a 'Guiding and Reference Device.'" As is clear from the disclosure of Liu, this reference focuses on the difficult problem presented by transmitter localization "in a fictitious urban area," where "blockage of line of sight (LOS) and multipath propagation effects" create impediments. See Paragraph 41.

Liu does disclose the use of a variety of "geometric" approaches to transmitter localization, but only within the confines of its recited method for "obtaining the signal properties of the transmitted signals." See *Claim 1*. Specifically, Liu recites the use, alternatively, of one of the group of the following "location estimation" methods: TOA, TDOA, AOA, time and angle of arrival, and time difference and angle of arrival. None of these location estimation methods, nor anywhere within the Liu disclosure itself, is a location method wherein a "cross-over point" is first generated, where "said cross-over point defined as the intersection of a pair of sequential real-time lines of bearing from said DF set each line of bearing corresponding to a wireless transmission from said transmitter received by said DF set," whereafter a "future position of said transmitter" is estimated "in reference to said cross-over point." None of the variety of position estimating methods disclosed by Liu employ a cross-over point, nor do they then use that cross-over point as a starting point to arriving at the next transmitter position estimate. Liu, therefore, fails to teach each and every element of Applicant's claimed invention.

**Dupray, U.S. Patent No. 6,249,252**

Dupray discloses a System for determining "Wireless Location using Multiple Location Estimators." Like Liu, Dupray focuses on the problem of multipath and LOS obstructions present in urban areas when attempting to localize wireless transmitters. See *Figure 2*. Furthermore, Dupray deals with a fixed detector/communication system (comprised of antennae and satellites) determining the location of a mobile transmitter in communication with the fixed system. In its broadest claim (Claim 1, element (d)), the Dupray method utilizes a TOA method for localization of the mobile transmitter.

The real-time position estimating benefits of Applicant's claimed invention are supported by ample disclosure within the subject specification, and are not trivial.

Like Liu, Dupray fails to employ a cross-over point, nor does the Dupray system and method then use that cross-over point as a starting point to arriving at the next transmitter position estimate. Dupray, like Liu, therefore, fails to teach each and every element of Applicant's claimed invention.

**Patentability of Independent Claim 15 (as amended)**

As discussed above, neither Liu, nor Dupray disclose each and every element of Applicant's Claim 15 (as amended), since neither discloses the generation of a cross-over point, nor the determination of future transmitter locations "in reference to said cross-over point."

By combining the elements of various well-known decisions, one can see that a prima facie case of anticipation is established only when the Examiner provides:

1. a single reference<sup>1</sup>
2. that teaches or enables<sup>2</sup>
3. each of the claimed elements (arranged as in the claim)<sup>3</sup>
4. expressly or inherently<sup>4</sup>
5. as interpreted by one of ordinary skill in the art.<sup>5</sup>

<sup>1</sup> *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

<sup>2</sup> *Akzo N.V. v. U.S. Int'l Trade Comm'n*, 808 F.2d 1471, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986) (citing *In re Brown*, 329 F.2d 1006, 1011, 141 USPQ 245, 249 (CCPA 1964).

<sup>3</sup> *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ at 485.

<sup>4</sup> *Continental Can Co. USA v. Monsanto Co.*, 20 USPQ 2d at 1749-50.

If the Examiner fails to produce a prima facie case of unpatentability, "then without more the applicant is entitled to the grant of the patent."<sup>5</sup>

Since each of Applicant's claimed elements are not taught or enabled by either Liu or Dupray, the Examiner's prima facie case of anticipation fails, and this ground for rejection must now therefore be withdrawn.

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<sup>5</sup> *Scripps Clinic & Research Found. v. Genentech Inc.*, 927 F.2d 1565, 18 USPQ 2d 1001, 1010 (Fed. Cir. 1991).

<sup>6</sup> *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992).

**Conclusion**

In view of the foregoing amendments and remarks, Applicant respectfully requests that the application be reconsidered, the claims be allowed, and the case passed to issue.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'K. Steins', written over a horizontal line.

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